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Official Use Only

Case Number	Judge	Magistrate Judge
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Case 2:13-cv-12980
 Judge: Edmunds, Nancy G.
 MJ: Whalen, R. Steven
 Filed: 07-10-2013 At 05:00 PM
 PRIS ARMANDO E. BERMUDEZ SR. V SAGI
 NAW POLICE DEPT, ET AL (LG)

PRISONER CIVIL RIGHTS COMPLAINT

This form is for use by state prisoners filing under 42 U.S.C. § 1983 and federal prisoners filing pursuant to Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971).

Plaintiff's Information			
Name	Armando E. Bermudez sr.		
	Prisoner No. 204721		
Place of Confinement	E.C.F Oaks Correctional Facility		
Street	City	State	Zip Code
1500 Caberfae Hwy.	Manistee	Mi.	49660
Are there additional plaintiffs?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
If yes, any additional plaintiffs to this action should be listed on a separate 8½" x 11" sheet of paper and securely attached to the back of this complaint. You must provide names, prisoner numbers and addresses for all plaintiffs.			

Defendant's Information			
Name	Saginaw Police Dept., Mich. St. Police Anthony Teneque, Trooper Oster Dept		
Street/P.O. Box	City	State	Zip Code
612 Federal	Saginaw	Mi.	48601
Are you suing this defendant in his/her:	<input type="checkbox"/> Personal Capacity <input type="checkbox"/> Official Capacity <input checked="" type="checkbox"/> Both Capacities		
Are you suing more than one defendant?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
If yes, any additional defendants to this action should be listed on a separate 8½" x 11" sheet of paper and securely attached to the back of this complaint. You must provide their names, positions, current addresses and the capacity (personal, official or both) in which you are suing them.			

I. PREVIOUS LAWSUITS

Have you filed any other lawsuits in state or federal court relating to your imprisonment?

Yes No

If "Yes," complete the following section. If "No," proceed to Part II.

Please list all prior civil actions or appeals that you have filed in federal court while you have been incarcerated.

Docket or Case Number:
Name of Court:
Parties (Caption or Name of Case):
Disposition:

Docket or Case Number:
Name of Court:
Parties (Caption or Name of Case):
Disposition:

Docket or Case Number:
Name of Court:
Parties (Caption or Name of Case):
Disposition:

Any additional civil actions should be listed on a separate sheet of 8½" x11" paper and securely attached to the back of this complaint.

II. STATEMENT OF FACTS

State here, as briefly as possible, the facts of your case. Describe how each defendant is involved. Include the names of other people, dates and places involved in the incident. Do not give any legal arguments or cite any cases or statutes.

On 7-8-10 at 2:30 AM I was stop for a headlight melfunktion, but I did not stop until I get home, by then I had State Trappers und Sasinaw Police on my tail. When I stop I got out of the car laid on my stomach, arms stretch out to my sides und Palms down. I was handcuff By sasinaw Police officer Teneyuque when he and other State Troopers comneced to kicking me on my head, ribs, Chest and legs. As Teneyuque grabed me by my hair and rubed my forehead and face into the concreat as I cyred for them to stop my wife and kids were also yellin for them to stop, when they found out thot they were my family Tropper Oster grabed me by my anchels and draged me yo to so Feet to his Squad car on my stomach where I was out of sight from my family

Continued next page

III. STATEMENT OF CLAIMS

State what rights under the Constitution, laws, or treaties of the United States have been violated, and be specific. Set forth each claim in a separate paragraph. If you intend to allege several related claims, number and set forth each claim on a separate 8½" x 11" sheet of paper and securely attach the papers to the back of this complaint.

Failure to intervene 4th. Amendment

- (1) Bruner 684 F.2d 442, 426; (6th Cir. 1982) 459 U.S. 117, 103 S.Ct. 816, 74 L.Ed.2d 1014
- (2) Darham v. Mu'Man 97 F.3d 862, 866-68 (6th Cir. 1996)
- (3) Anderson v. Branen 17 F.3d 552, 557 (2d Cir. 1994)
- (4) Byrd v. Brishke 466 F.2d 6 (7th Cir. 1972)
- (5) McHenry v. Chadwick 896 F.2d 184 (6th Cir. 1990)
- (6) Ohio Civil Serv. 858 F.2d [REDACTED] at 1177
- (7) O'Neill v. Krzeminski 839 F.2d 9, 11 (2d Cir. 1988)
- (8) Byrd v. Clark 783 F.2d 1000, 1007 (11th Cir. 1986)
- (9) Webb v. HiYKe 713 F.2d 405, 408 (8th Cir. 1983)
- (10) Davidson v. Cannon 474 U.S. 344-106 S.Ct. 668, 670, 88 L.Ed. 677, 683 (1986)
- (11) McDowell v. Rogers 863 F.2d 1302, 1307 (6th Cir. 1988)
- (12) Bachin v. California 342 U.S. 165, 72 S.Ct. 205, 96 L.Ed. 183 (1952)
- (13) Wilson v. Beebe 770 F.2d at 586
- (14) Turner v. Scott 119 F.3d 925, 929 (6th Cir. 1997)

Part A

IV. RELIEF

State briefly and exactly what you want the Court to do for you.

I would like for Teneyuque and all who where involved to receive their just Punishment! For him and all who are responsible to give up their Possistions

(Rev. 03/11) Prisoner Civil Rights Complaint

as law enforcement and Protectors of our city. I also am asking for Pain and suffering on behalf of me and my family to be Paid Resettution. All officers involved are named in my cass which I have not the documents are in People vs. Armando E. Bermudez File No. 10-034559-FH-3 in Saginaw Mi. 48602 Assistant Prosecuting Attorney Randy L. Price 111 S. Michigan Ave. Saginaw Mi. 48602-2019 989-790-5330 and would like to include them as well latter on as we Proceed, Tropper Oster from the bridgePort state Police Post 6280 Dixie Highway BridgePort Mi. 48601 also Mental Anguish.

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct.

Executed (signed) on _____ (date).

Armando E. Bermudez Sr.
Signature of Plaintiff

Defendants

8. Mi. Department of State Police; 9. Saginaw Police DePt.
6280 Dixie Highway 612 Federal
BridgePort Mi. 48601 Saginaw Mi. 48601

1. Trooper Oster
2. Trooper Bledsoe
3. Trooper Korzek
4. Trooper Jerome

5. Officer Addison Burton
6. Officer Blake Hibben
7. Officer Anthony Teneyuque

Witnesses

1. Christina Bermudez
3. Juan AunGuiano
5. Vilente Bermudez

2. Nadia Rodriguez
4. Olivia Torres

while I was on the ground Trooper Kept his boot on my head, Pressing down hard while he talkt to other Troopers. And during this time they Kept taunting me and calling me names. I was then taken to St. Marreys HosPittel Where Trooper Oster edmitted me as being in a car accident to Cover their misconduct.

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4th. Amend. Failure of Senior Officer to Intervene

- ① Hays v. Jefferson County 668 F.2d 869 (6th Cir. 1982)
- ② Durham v. Nu'Man 97 F.3d 862, 866-68 (6th Cir. 1996)
- ③ Anderson v. Branen 17 F.3d 552, 557 (2d. Cir. 1994)
- ④ Leach v. Shelby County Sheriff 891 F.2d 1241 (6th Cir. 1989)

UNLAWFULNESS OF CONDUCT 4th Amend.

- ① Wegener v. City of Covington 933 F.2d 390, 392 (6th Cir. 1991)
- ② City of Bremerton 268 F.3d at 651-52
- ③ Chew v. Gates 27 F.3d 1432, 1440 (9th Cir. 1994)
- ④ Darnell v. Laver No. 97-5297, 1998 WL 416009 at 3 (6th Cir. 1998)
- ⑤ Martin v. Heideman 106 F.3d 1308, 1311-12 (6th Cir. 1997)
- ⑥ Kain v. Nesbitt 156 F.3d 669, 673 (6th Cir. 1998)
- ⑦ Gladdis v. Redford Township 364 F.3d 763, 772 (6th Cir. 2004)
- ⑧ Graham v. Connor 490 U.S. 386, 109 S.Ct. 1865, 104 L.ed.2d 443 (1989)
- ⑨ Adams v. Metiva 31 F.3d 375, 387 (6th Cir. 1994)
- ⑩ Phelps v. Coy 286 F.3d 295, 2002 Fed. APP. 0121
- ⑪ Willson v. Layen 526 U.S. 603, 615, 119 S.Ct 1692, 143 L.ed.2d 818 (1999)

ASSALT AND BATTERY 4th Amend.

- ① Tinkler v. Richter 295 Mich. 396, 401; 295 N.W.2d 11940
- ② Sudul v. Hamtramick 221 Mich. APP. 455, 458, 477; 562 N.W.2d 478 (1997)
- ③ Rutherford v. Berkely 780 F.2d 1444, 1448 (9th Cir. 1986)
- ④ Smith v. Stolberg 231 Mich. APP. 256, 286 N.W.2d 103 (1998)
- ⑤ Espinoza v. Thomas 189 Mich. APP. 110, 119, 472 N.W.2d 16 (1991)
- ⑥ Gaddis v. Redford T.P. No. 242831, 2004 WL 243363 4 (Mich.) Ct. APP. 2004
- ⑦ White v. City of Vassar 157 Mich. APP. 282, 403 N.W.2d 124 (1987)
- ⑧ Phelps v. Coy 286 F.3d 295, 2002 Fed. APP. 0121
- ⑨ Graham v. Connor 490 U.S. 386, 109 S.Ct. 1865, 104 L.Ed.2d 443 (1989).

EXCESSIVE USE OF FORCE 4th. Amend.

- ① Tennessee v. Garner Supra 471 U.S. at 7-22, 105 S.Ct. at 1699-1707
- ② Doe v. Sullivan County Tennessee 956 F.2d 545, 555 6th Cir.
- ③ Wilson v. Beebe 770 F.2d at 586
- ④ Graham v. Connor 490 U.S. 386, 109 S.Ct. 1865, 104 L.ed. 2d 443 (1989)
- ⑤ Phelps v. Coy 286 F.3d 295, 2002 Fed. APP. 0121
- ⑥ Rochin v. California 342 U.S. 165, 72 S.Ct. 205, 96 L.ed 183 (1952)

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Excessive use of Force 4th. Amend.

- ⑦ Dickerson v. McChellen 101 F.3d 1151, 1161-1162 (6th Cir. 1996)
- ⑧ Adamams v. Metiva 31 F.3d 375, 386 (6th Cir. 1994)
- ⑨ McDowell v. Rogers 863 F.2d at 1307
- ⑩ Darnell v. Caver No. 97-5297, 1998 WL 416000 at 3 (6th Cir. 1998)
- ⑪ Saucier v. Katz 533 U.S. 194, 121 S.Ct. 2151, 2156, 150 L.Ed.2d 272 (2001)
- ⑫ Dugan v. Brooks 818 F.2d 513 supra
- ⑬ Lewis v. Downs 774 F.2d 771 supra (6th Cir. 1985)
- ⑭ U.S.C.A. Const. Amend. 4; 42 U.S.C.A 1983 - Bulwema v. Benzic County 146 Fed. App. 0715 N. Arrest 68 (2)
- ⑮ U.S.C.A. Const. Amend. 4 - Lanman v. Henson 448 F. Supp. 2d 844 - Arrest 68 (2)
- ⑯ Feemster v. Dehntjer 661 F.2d 87, 89 (8th Cir. 1981)
- ⑰ Bruner v. Dunaway 684 F.2d 422 (6th Cir. 1982)
- ⑱ 483 U.S. at 640, 107 S.Ct. 3034
- ⑲ Wilson v. Laten 526 U.S. 603, 615, 119 S.Ct. 1692, 143 L.Ed.2d 818 (1999)
- ⑳ Turner v. Scoot 191 F.3d 425, 429 (6th Cir. 1997)
- ㉑ Gladdis v. Redford Township 364 F.3d 763, 772 (6th Cir. 2004)
- ㉒ Cox v. Treadway 75 F.3d 230 (6th Cir. 1996) T(1986)
- ㉓ Davidson v. Cannon 474 U.S. 344-106 S.Ct. 668, 670, 88 L.ed.2d 677 & 683 ↑
- ㉔ Tinkler v. Richter 295 Mich. 396, 401; 295 N.W.2d 1940
- ㉕ Sudul v. Hamtramck 221 Mich. APP. 455, 458, 477; 526 N.W.2d 478 (1997)
- ㉖ Toms v. Taft 338 F.3d 519, 524 (6th Cir. 2003)
- ㉗ Williams v. Mehra 186 F.3d 685, 691 (6th Cir. 1999)
- ㉘ Anderson 483 U.S. 640, 107 S.Ct. 3034
- ㉙ Barton v. Norrod 106 F.3d 1289, 1293 (6th Cir. 1997)

EXCESSIVE USE OF FORCE 4th. Amend.

- (30) Smith v. Stolberg 231 Mich. App. 256, 286 N.W.2d 103 (1998)
- (31) Espinoza v. Thomas 189 Mich. App. 110, 119, 472 N.W.2d 16 (1991)
- (32) White v. City of Vassar 157 Mich. App. 282, 403 N.W.2d 124 (1987)
- (33) Ianman 448 F. Supp. 2d 844
- (34) Terry 392 U.S. 1, 88 S.Ct 1868, 20 L.Ed.2d 889
- (35) O'Brien v. City of Grand Rapids 23 F.3d 990, 995 (6th Cir. 1994)
- (36) Darnell v. Caver No. 97-5297, 1998 WL 416000 at 3 (6th Cir. 1998)
- (37) Monday v. Oullette 118 F.3d 1099, 1104 (6th Cir. 1997)
- (38) Wegener v. City of Covington 933 F.2d 390, 392 (6th Cir. 1991)
- (39) Smith v. Ross 482 F.2d 33 (6th Cir. 1973)
- (40) Byrd v. Brishke 466 F.2d 6 (7th Cir. 1972)
- (41) McHenry v. Chadwick 896 F.2d 184 (6th Cir. 1990)
- (42) Thomas v. Whalen 51 F.3d 1285, 1289-90 (6th Cir.-U.S.- 116 S.Ct. 518, 133 L.Ed.2d 426 (1995))
- (43) Walton v. City of Southfield 995 F.2d 1331, 1335-36 (6th Cir. 1993)
- (44) Johnson v. Glick 481 F.2d 1028, 1033 (2d Cir.) 414 U.S. 1033, 94 S.Ct. 462 L.Ed. 2d 324 (1973)
- (45) Ting v. United States 927 F.2d 1504, 1510 (9th Cir. 1991)
- (46) P.B. v. Koch 96 F.3d 1298, 1303-04 (9th Cir. 1996)
- (47) Palmer v. Sanderson 9 F.3d 1433, 1436 (9th Cir. 1993)
- (48) [REDACTED] City of Bremerton 268 F.3d at 651-52 quoting Chew v. Gates 27 F.3d 1432, 1440 (9th Cir. 1994)

CIVIL COVER SHEET FOR PRISONER CASES

Case No. 13-12980	Judge: Nancy G. Edmunds	Magistrate Judge: R. Steven Whalen
Name of 1 st Listed Plaintiff/Petitioner: ARMANDO E. BERMUDEZ SR.	Name of 1 st Listed Defendant/Respondent: SAGINAW POLICE DEPT, ET AL	
Inmate Number: 204721	Additional Information:	
Plaintiff/Petitioner's Attorney and Address Information: 		
Correctional Facility: Earnest C. Brooks Correctional Facility 2500 S. Sheridan Drive Muskegon Heights, MI 49444 MUSKEGON COUNTY		

BASIS OF JURISDICTION

- 2 U.S. Government Defendant
 3 Federal Question

ORIGIN

- 1 Original Proceeding
 5 Transferred from Another District Court
 Other:

NATURE OF SUIT

- 530 Habeas Corpus
 540 Mandamus
 550 Civil Rights
 555 Prison Conditions

FEE STATUS

- IFP *In Forma Pauperis*
 PD Paid

PURSUANT TO LOCAL RULE 83.11

1. Is this a case that has been previously dismissed?

Yes No

> If yes, give the following information:

Court: _____

Case No: _____

Judge: _____

2. Other than stated above, are there any pending or previously discontinued or dismissed companion cases in this or any other court, including state court? (Companion cases are matters in which it appears substantially similar evidence will be offered or the same or related parties are present and the cases arise out of the same transaction or occurrence.)

Yes No

> If yes, give the following information:

Court: _____

Case No: _____

Judge: _____